BEST COPY
AVAILABLE

MONTANA LEGISLATIVE HISTORY

Chapter 676 19 91

Bill H _____ S 280 Original bill & history ✓ C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s)	Mar 22	✓ C	Hearing Date(s)	Feb 14	✓ C
		C			C
		C			C
		C			C
Date Out	Mar 22	✓ C		Feb 14	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SENATE BILL NO. 280

INTRODUCED BY B. BROWN

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

FEBRUARY 5, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
FEBRUARY 18, 1991	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 19, 1991	PRINTING REPORT.
FEBRUARY 21, 1991	SECOND READING, DO PASS.
FEBRUARY 22, 1991	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 49; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 4, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 23, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 11, 1991	SECOND READING, CONCURRED IN.
APRIL 12, 1991	THIRD READING, CONCURRED IN. AYES, 95; NOES, 2.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 17, 1991	RECEIVED FROM HOUSE.
	SECOND READING, AMENDMENTS CONCURRED IN.

APRIL 18, 1991

THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

Senate BILL NO. 280

INTRODUCED BY Bob Brown

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND STANDARDIZE THE ADMINISTRATION AND COLLECTION OF CERTAIN TAXES AND FEES BY THE DEPARTMENT OF REVENUE BY PROVIDING FOR UNIFORM DEFICIENCY ASSESSMENTS, UNIFORM STATUTES OF LIMITATION, AND CREDIT FOR OVERPAYMENTS FOR THE STATE EMERGENCY TELEPHONE SYSTEM FEE, THE TELEPHONE COMPANY LICENSE TAX, THE FREIGHT LINE COMPANY LICENSE TAX, THE LODGING FACILITY USE TAX, THE PASSENGER TRAMWAY ASSESSMENT, THE ANNUAL FEE ON RURAL COOPERATIVE UTILITIES, AND THE FEE ON REGULATED COMPANIES FOR THE OFFICE OF THE CONSUMER COUNSEL; AMENDING SECTIONS 10-4-211, 15-53-105, 15-53-111, 15-55-108, 15-65-112, 15-65-115, 23-2-715, 35-18-503, 69-1-225, AND 69-1-226, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 10-4-211, MCA, is amended to read:

"**10-4-211. Provider required to hold fee in trust for state -- penalty and interest.** (1) Every provider required to collect the fee imposed by 10-4-201 holds it in trust for the state of Montana and for the payment thereof to the department of revenue in the manner and at the time provided by 10-4-204.

(2) (a) If a provider required to collect the fee fails to remit any amount held in trust for the state of Montana or if a subscriber fails to pay the fee, ~~the~~ on or before the last day of the month following the end of each calendar quarter, the department of revenue shall add to the amount of the delinquent fee, in addition to any other penalty provided by law, a penalty equal to 10% of the delinquent fee plus interest at the rate of 1% a month or fraction of a month computed on the amount of the delinquent fee plus any unpaid penalties and interest. Interest is computed from the date the fee is due until the date of payment.

(b) The department of revenue may waive the penalty if the provider establishes that the failure to pay on time was due to reasonable cause and was not due to neglect.

(3) [(a) If the department of revenue determines that the amount of fee due is greater than the amount reported, it shall mail to the provider a notice of the additional fee proposed to be assessed. Within 30 days after mailing of the notice, the provider may file with the department of revenue a written protest against the proposed additional fee, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his

LC 0311/01

INTRODUCED BILL
SB 280

additional liability. If a protest is not filed, the amount of the additional fee proposed to be assessed becomes final upon expiration of the 30-day period. If a protest is filed, the department of revenue shall reconsider the proposed assessment and, if the provider has so requested, shall grant the provider an oral hearing. After consideration of the protest and the evidence presented at an oral hearing, the department of revenue's action upon the protest is final when it mails notice of its action to the provider.]

(b) When a deficiency is determined and the additional fee becomes final, the department of revenue shall mail a notice and demand for payment to the provider. The fee is due and payable at the expiration of 10 days after the notice and demand were mailed. Interest on any deficiency assessment bears interest until paid, at the rate of 1% a month or fraction of a month, computed from the original due date of the return.

(c) If payment is not made within 10 days, the amount of the deficiency is considered delinquent. A 10% penalty must be added to the amount of the deficiency.

(4) The 10% penalty provided for in subsection (3)(c) may be waived by the department of revenue if the provider establishes that the failure to pay the proper amount of fees was due to reasonable cause and was not due to neglect.

(5) The department of revenue may enforce collection by

the issuance of a warrant for distraint for the collection of the delinquent amount and all penalties, interest, and collection charges accrued thereon. The warrant is governed by the provisions of Title 15, chapter 1, part 7."

Section 2. Section 15-53-105, MCA, is amended to read:

"15-53-105. Deficiency assessment -- hearing -- penalty -- interest. (1) When If the department of revenue determines that the amount of tax due is greater than the amount ~~disclosed by a return~~ reported, it shall mail to the taxpayer a notice of the additional tax proposed to be assessed. Within 30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If no a protest is not filed, the amount of the additional tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must shall reconsider the proposed assessment and, if the taxpayer has so requested, must shall grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any an oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer.

(2) (a) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days ~~from the date of such~~ after the notice and demand were mailed. Interest on any deficiency assessment ~~shall bear~~ bears interest until paid, at the rate of 1% a month or fraction ~~thereof~~ of a month, computed from the original due date of the return.

(b) If payment is not made within 10 days, the amount of the deficiency is considered delinquent. A 10% penalty must be added to the amount of the deficiency."

Section 3. Section 15-53-111, MCA, is amended to read:

"**15-53-111. Penalty and interest for delinquency -- waiver.** (1) License taxes due under this chapter become delinquent if not paid within 60 days after the end of each calendar quarter. The department of revenue shall add to the amount of all delinquent telephone company license taxes a penalty of 10% of the amount of license taxes plus interest at the rate of 1% per month or fraction thereof computed on the total amount of license taxes ~~and penalty~~. Interest is computed from the date the license taxes were due to the date of payment.

(2) The 10% penalty may be waived by the department if reasonable cause for the failure or neglect to file the statement required by 15-53-102 or pay the tax due is

provided to the department."

Section 4. Section 15-55-108, MCA, is amended to read:

"**15-55-108. Penalty and interest for delinquency -- waiver.** (1) License taxes due under this chapter become delinquent if not paid by March 1. The department shall add to the amount of all delinquent freight line company license taxes a penalty of 10% of the amount of license taxes plus interest at the rate of 1% per month or fraction thereof computed on the total amount of license taxes ~~and penalty~~. Interest is computed from the date the license taxes were due to the date of payment.

(2) The 10% penalty may be waived by the department if reasonable cause for the failure or neglect to file the statement required by 15-55-103 or pay the tax due is provided to the department."

Section 5. Section 15-65-112, MCA, is amended to read:

"**15-65-112. Collection and reporting.** (1) The owner or operator of a facility shall collect the tax imposed by 15-65-111.

(2) The owner or operator shall report to the department of revenue, at the end of each calendar quarter, the gross receipts collected during that quarter attributable to accommodation charges for the use of the facility. The report is due ~~within 30 days~~ on or before the last day of the month following the end of the calendar

quarter and must be accompanied by a payment in an amount equal to the tax required to be collected under subsection (1)."

Section 6. Section 15-65-115, MCA, is amended to read:

"15-65-115. Failure to pay or file -- penalty -- interest. (1) An owner or operator of a facility who fails to file the report as required by 15-65-112 must be assessed a penalty of ~~2%~~ 10% of the tax that should have been collected during the calendar quarter. Upon a showing of good cause, the department of revenue may waive the penalty.

(2) An owner or operator of a facility who fails to make payment or fails to report and make payment as required by 15-65-112 must be assessed a penalty of ~~2%~~ 10% of the amount that was not paid. Upon a showing of good cause, the department may waive the penalty.

(3) (a) If an owner or operator of a facility fails to file the report required by 15-65-112 or if the department of revenue determines that the report understates the amount of tax due, the department may determine the amount of the tax due and assess that amount against the owner or operator.

[(b) If the department of revenue determines that the amount of tax due is greater than the amount reported or that the owner or operator of a facility failed to file a report, it shall mail to the owner or operator a notice of

the additional tax proposed to be assessed. Within 30 days after mailing of the notice, the owner or operator may file with the department a written protest against the proposed additional tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his tax liability. If a protest is not filed, the amount of the additional tax proposed to be assessed becomes final upon expiration of the 30-day period.]

(c) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the owner or operator. The tax is due and payable at the expiration of 10 days after the notice and demand were mailed. Interest on any deficiency assessment bears interest until paid, at the rate of 1% a month or fraction of a month, computed from the original due date of the return.

(4) The amount required to be paid under 15-65-112 accrues interest at the rate of 1% a month or part thereof from delinquency until paid."

Section 7. Section 23-2-715, MCA, is amended to read:

"23-2-715. Assessment on passenger tramway receipts -- penalty and interest. (1) The board is hereby authorized to impose an assessment of up to 1/4 of 1% on the gross receipts of all passenger tramways operated in the state of

Montana. A minimum of $100 shall be collected annually from the owner of a passenger tramway facility. The assessment shall be calculated upon gross receipts received during the period July 1 of any year to July 1 of the following year. The assessments shall be collected by the department of revenue and remitted to the state special revenue fund by on or before December 31 of each year for the previous fiscal year.

(2) [(a) If the department of revenue determines that the amount of assessment due is greater than the amount reported, it shall mail to the operator a notice of the additional assessment proposed to be assessed. Within 30 days after mailing of the notice, the operator may file with the department of revenue a written protest against the proposed additional assessment, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his assessment liability. If a protest is not filed, the amount of the additional assessment proposed to be assessed becomes final upon expiration of 30-day period. If a protest is filed, the department of revenue shall reconsider the proposed assessment and, if the operator has so requested, shall grant the operator an oral hearing. After consideration of the protest and the evidence presented at an oral hearing,

the department of revenue's action upon the protest is final when it mails notice of its action to the operator.]

(b) When a deficiency is determined and the assessment becomes final, the department of revenue shall mail a notice and demand for payment to the operator. The assessment is due and payable at the expiration of 10 days after the notice and demand were mailed. Interest on any deficiency assessment bears interest until paid, at the rate of 1% a month or fraction of a month, computed from the original due date of the return.

(c) If payment is not made within 10 days, the amount of the deficiency is considered delinquent. A 10% penalty must be added to the amount of the deficiency.

~~(2)~~(3) All proceeds of the gross receipts assessment and the fees collected under 23-2-714 shall be used only to support the duties of the board set forth in this part."

Section 8. Section 35-18-503, MCA, is amended to read:

"35-18-503. Annual fee to department of revenue -- exemption from other taxes. Cooperatives and foreign corporations transacting business in this state pursuant to the provisions of this chapter shall pay annually on or before July 1, to the department of revenue a fee of $10 for each 100 persons or fractions thereof to whom electricity or telephone service ~~is~~ was supplied during the previous calendar year within the state but and, except as provided

in 10-4-201, shall be exempt from all other excise and income taxes of whatsoever kind or nature."

Section 9. Section 69-1-225, MCA, is amended to read:

"69-1-225. Computation and collection of fee in absence of statement -- penalty and interest. (1) If a regulated company or an officer or employee of a regulated company fails, neglects, or refuses to file the statement required by 69-1-223(2), the department of revenue may after the time for filing has expired proceed to inform itself, as best it may, regarding the regulated company's gross operating revenue from all activities regulated by the commission within the state for the calendar quarter, quarters, or portion thereof and may determine and fix the amount of the consumer counsel fee due.

(2) ~~The department may add to the amount of the fee computed under subsection (1), in addition to any other penalty provided by law, a penalty of 10% thereof plus interest at the rate of 1% per month or fraction of month computed on the total amount of fee and penalty. Interest is computed from the date the fee is due to the date of payment.~~ [If the department of revenue determines that the amount of fee due is greater than the amount reported or makes an estimate pursuant to subsection (1), it shall mail to the regulated company a notice of the fee proposed to be assessed. Within 30 days after mailing of the notice, the

regulated company may file with the department a written protest against the proposed fee, setting forth the grounds upon which the protest is based, and may request in its protest an oral hearing or an opportunity to present additional evidence relating to its liability.]

(3) ~~The department of revenue shall mail to the regulated company a letter setting forth the amount of the fee, penalty, and interest and notifying the company that payment of the full amount of the fee, penalty, and interest must be remitted within 15 days of the regulated company's receipt of the letter; otherwise a lien may be filed.~~ (a) When a deficiency is determined and the fee becomes final, the department shall mail a notice and demand for payment to the regulated company. The fee is due and payable at the expiration of 10 days after the notice and demand were mailed. Interest on any deficiency assessment bears interest until paid, at the rate of 1% a month or fraction of a month, computed from the original due date of the return.

(b) If payment is not made within 10 days, the amount of the deficiency is considered delinquent. A 10% penalty must be added to the amount of the deficiency.

(4) The 10% penalty may be waived by the department of revenue if reasonable cause for failure and neglect to file the statement is provided to the department."

Section 10. Section 69-1-226, MCA, is amended to read:

"**69-1-226. Failure to pay fee -- penalty and interest -- collection of fee.** (1) If a regulated company or an officer or employee of a regulated company files the statement required by 69-1-223(2) but fails, neglects, or refuses to pay the fee due within the time required, the department of revenue may after the time for payment has expired add to the fee due, in addition to any other penalty provided by law, a penalty of 10% thereof plus interest at the rate of 1% per month or fraction of month computed on the total amount of the fee ~~and--penalty~~. Interest is computed from the date the fee is due to the date of payment.

(2) The department of revenue shall mail to the regulated company a letter setting forth the amount of the fee, penalty, and interest and notifying the company that payment of the full amount of the fee, penalty, and interest must be remitted within ~~15~~ 10 days of the regulated company's receipt of the letter; otherwise a warrant for distraint may be filed.

(3) The 10% penalty may be waived by the department of revenue if reasonable cause for failure and neglect to make payment is provided to the department."

NEW SECTION. **Section 11.** Penalty and interest for delinquency -- waiver. (1) Assessments due under this

chapter are delinquent if not paid on or before December 31. The department of revenue shall add to the amount of each delinquent assessment a penalty of 10% of the amount of the assessment plus interest at the rate of 1% per month or fraction of a month computed on the total amount of assessment. Interest is computed from the date the assessment was due to the date of payment.

(2) The 10% penalty may be waived by the department of revenue if reasonable cause is established for the failure or neglect to file the return required by 23-2-715 or to pay the assessment due to the department of revenue.

NEW SECTION. **Section 12.** Credit for overpayment -- interest on overpayment. (1) If the department of revenue determines that the amount of fee, penalty, or interest paid for any year is more than the amount due, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or the taxpayer's successor through reorganization, merger, or consolidation or to the taxpayer's shareholders upon dissolution.

(2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as is charged on deficiency assessments from the due date of the return or from the date of overpayment, whichever date is later, to the date the department of revenue approves refunding or

crediting of the overpayment.

(3) (a) Interest does not accrue during any period in which the processing of a claim for a refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department of revenue for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than $1.

(c) Only a payment made incident to a bona fide and orderly discharge of actual tax liability or one reasonably assumed to be imposed by this chapter is considered an overpayment with respect to which interest is allowable.

NEW SECTION. **Section 13.** Credit for overpayment -- interest on overpayment. (1) If the department of revenue determines that the amount of tax, penalty, or interest paid for any year is more than the amount due, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer, to the taxpayer's successor through reorganization, merger, or consolidation, or to the taxpayer's shareholders upon dissolution.

(2) Except as provided in subsection (3), interest is

allowed on overpayments at the same rate as is charged on deficiency assessments from the due date of the return or from the date of overpayment, whichever is later, to the date the department approves refunding or crediting of the overpayment.

(3) (a) Interest does not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than $1.

(c) Only a payment made incident to a bona fide and orderly discharge of actual tax liability or one reasonably assumed to be imposed by this chapter is considered an overpayment with respect to which interest is allowable.

NEW SECTION. **Section 14.** Credit for overpayment -- interest on overpayment. (1) If the department of revenue determines that the amount of the assessment, penalty, or interest paid for any year is more than the amount due, the amount of the overpayment must be credited against any assessment, penalty, or interest then due from the taxpayer

and the balance refunded to the taxpayer, to the taxpayer's successor through reorganization, merger, or consolidation, or to the taxpayer's shareholders upon dissolution.

(2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as is charged on deficiency assessments provided in 23-2-715(2) from the due date of the return or from the date of overpayment, whichever is later, to the date the department of revenue approves refunding or crediting of the overpayment.

(3) (a) Interest does not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department of revenue for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than $1.

(c) Only a payment made incident to a bona fide and orderly discharge of actual tax liability or one reasonably assumed to be imposed by this chapter is considered an overpayment with respect to which interest is allowable.

NEW SECTION. **Section 15.** Statute of limitations. (1) Except as provided in subsection (3), a deficiency may not

be assessed or collected with respect to the year for which a statement of gross receipts is filed unless the notice of the proposed additional assessment is mailed within 5 years from the date the statement of gross receipts was filed. For purposes of this section, a statement of gross receipts filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment, consents in writing to an extended time, the assessment may be made at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be allowed or paid with respect to the year for which a statement of gross receipts is filed after 5 years from the last day prescribed for filing the statement of gross receipts or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period the taxpayer files a claim or the department of revenue determines the existence of the overpayment and approves the refund or credit. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department of revenue may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

(3) If a statement of gross receipts is required to be filed and the taxpayer fails to file the statement of gross receipts, the tax may be assessed or an action to collect the tax may be brought at any time. If a statement of gross receipts is required to be filed and the taxpayer files a fraudulent statement of gross receipts, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department of revenue.

NEW SECTION. **Section 16.** Statute of limitations. (1) Except as provided in subsection (3), a deficiency may not be assessed or collected with respect to the year for which a return is filed unless the notice of the additional fee proposed to be assessed is mailed within 5 years from the date the return was filed. For purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment of the fee, consents in writing to an assessment after that time, the fee may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the

period the taxpayer files a claim or the department of revenue determines the existence of the overpayment and approves the refund or credit. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department of revenue may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

(3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department of revenue.

NEW SECTION. **Section 17.** Penalty and interest for delinquency -- waiver. (1) Fees due under this chapter become delinquent if not paid on or before July 1 for the previous calendar year. The department of revenue shall add to the amount of each delinquent fee a penalty of 10% of the amount of the fee plus interest at the rate of 1% per month or fraction of a month computed on the total fee. Interest is computed from the date the fees were due to the date of payment.

(2) The 10% penalty may be waived by the department if

reasonable cause for the failure or neglect to pay the fee required by 35-18-503 is provided to the department.

NEW SECTION. **Section 18.** Deficiency assessment -- hearing -- interest. (1) If the department of revenue determines that the amount of fee due is greater than the amount reported, it shall mail to the taxpayer a notice of the additional fee proposed to be assessed. Within 30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional fee, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his additional liability. If a protest is not filed, the amount of the additional fee proposed to be assessed becomes final upon expiration of the 30-day period. If a protest is filed, the department shall reconsider the proposed assessment and, if the taxpayer has requested, shall grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at an oral hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer.

(2) (a) When a deficiency is determined and the additional fee becomes final, the department shall mail a notice and demand for payment to the taxpayer. The fee is due and payable at the expiration of 10 days after the

notice and demand were mailed. Interest on any deficiency assessment bears interest until paid, at the rate of 1% a month or fraction of a month, computed from the original due date of the return.

(b) If payment is not made within 10 days, the amount of the deficiency is considered delinquent. A 10% penalty must be added to the amount of the deficiency.

NEW SECTION. **Section 19.** Codification instruction. (1) [Sections 12 and 16] are intended to be codified as an integral part of Title 69, chapter 1, part 2, and the provisions of Title 69, chapter 1, part 2, apply to [sections 12 and 16].

(2) [Sections 12 and 16] are intended to be codified as an integral part of Title 10, chapter 4, part 2, and the provisions of Title 10, chapter 4, part 2, apply to [sections 12 and 16].

(3) [Section 13] is intended to be codified as an integral part of Title 15, chapter 65, part 1, and the provisions of Title 15, chapter 65, part 1, apply to [section 13].

(4) [Sections 11, 14, and 15] are intended to be codified as an integral part of Title 23, chapter 2, part 7, and the provisions of Title 23, chapter 2, part 7, apply to [sections 11, 14, and 15].

(5) [Sections 12, 16, 17, and 18] are intended to be

codified as an integral part of Title 35, chapter 18, part 5, and the provisions of Title 35, chapter 18, part 5, apply to [sections 12, 16, 17, and 18].

NEW SECTION. **Section 20.** Coordination instruction. If ___ Bill No. ____ [LC 981] is passed and approved and if it includes a section adopting a uniform tax appeal procedure, the bracketed language contained in [sections 1, 6, 7, and 9] is void, and the provisions of ___ Bill No. ___ [LC 981] govern taxpayer appeal procedures.

NEW SECTION. **Section 21.** Applicability. [This act] applies to all returns or statements due on or after July 1, 1991.

NEW SECTION. **Section 22.** Effective date. [This act] is effective on passage and approval.

-End-

2/18	FISCAL NOTE PRINTED		
2/18	FIRST READING		
2/18	REFERRED TO TAXATION		
2/18	FISCAL NOTE RECEIVED		
3/19	HEARING		
3/19	COMMITTEE REPORT—BILL CONCURRED		
3/19	PLACED ON CONSENT CALENDAR		
3/20	OBJECTION TO CONSENT CALENDAR FILED		
4/11	2ND READING CONCURRED	90	5
4/12	3RD READING CONCURRED	95	3
	RETURNED TO SENATE		
4/18	SIGNED BY PRESIDENT		
4/20	SIGNED BY SPEAKER		
4/20	TRANSMITTED TO GOVERNOR		
4/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 595	EFFECTIVE DATE: 4/24/91	

SB 279 INTRODUCED BY B. BROWN, ET AL.

PROVIDE A MONTANA TAXPAYER BILL OF RIGHTS AND OFFICE OF TAXPAYER ASSISTANCE

BY REQUEST OF DEPARTMENT OF REVENUE

2/05	INTRODUCED		
2/06	REFERRED TO TAXATION		
2/06	FIRST READING		
2/06	FISCAL NOTE REQUESTED		
2/11	FISCAL NOTE RECEIVED		
2/11	FISCAL NOTE PRINTED		
2/14	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/16	2ND READING PASSED	47	1
2/18	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO TAXATION		
3/21	HEARING		
3/22	COMMITTEE REPORT—BILL CONCURRED		
4/11	2ND READING CONCURRED	96	0
4/12	3RD READING CONCURRED	96	2
	RETURNED TO SENATE		
4/18	SIGNED BY PRESIDENT		
4/20	SIGNED BY SPEAKER		
4/20	TRANSMITTED TO GOVERNOR		
4/25	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 619	EFFECTIVE DATE: 10/01/91	

SB 280 INTRODUCED BY B. BROWN

REVISE AND STANDARDIZE PROCEDURES FOR CERTAIN TAXES AND FEES COLLECTED BY DEPARTMENT OF REVENUE

BY REQUEST OF DEPARTMENT OF REVENUE

2/05	INTRODUCED		
2/06	REFERRED TO TAXATION		
2/06	FIRST READING		
2/06	FISCAL NOTE REQUESTED		
2/11	FISCAL NOTE RECEIVED		
2/12	FISCAL NOTE PRINTED		
2/14	HEARING		
2/18	COMMITTEE REPORT—BILL PASSED		
2/21	2ND READING PASSED	49	0
2/22	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		

3/04	FIRST READING		
3/04	REFERRED TO TAXATION		
3/22	HEARING		
3/23	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/11	2ND READING CONCURRED	95	3
4/12	3RD READING CONCURRED	95	2
	RETURNED TO SENATE WITH AMENDMENTS		
4/17	2ND READING AMENDMENTS CONCURRED	49	0
4/18	3RD READING AMENDMENTS CONCURRED	49	0
4/22	SIGNED BY PRESIDENT		
4/23	SIGNED BY SPEAKER		
4/23	TRANSMITTED TO GOVERNOR		
4/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 676	EFFECTIVE DATE: 4/27/91	

SB 281 INTRODUCED BY B. BROWN

MANDATORY MEDICAL BENEFITS COVERAGE IN AUTOMOBILE LIABILITY INSURANCE

2/05	INTRODUCED		
2/06	REFERRED TO BUSINESS & INDUSTRY		
2/06	FIRST READING		
2/23	TABLED IN COMMITTEE		

SB 282 INTRODUCED BY B. BROWN, ET AL.

REVISE CAMPAIGN CONTRIBUTION REPORTING AND ENFORCEMENT

2/05	INTRODUCED		
2/06	REFERRED TO STATE ADMINISTRATION		
2/06	FIRST READING		
2/06	FISCAL NOTE REQUESTED		
2/07	FISCAL NOTE RECEIVED		
2/12	FISCAL NOTE PRINTED		
2/20	HEARING		
2/21	COMMITTEE REPORT—BILL NOT PASSED		
2/21	ADVERSE COMMITTEE REPORT ADOPTED	31	13

SB 283 INTRODUCED BY DOHERTY, ET AL.

REVISE THE ENFORCEMENT PROVISIONS OF THE METAL MINE RECLAMATION ACT

BY REQUEST OF DEPARTMENT OF STATE LANDS

2/05	INTRODUCED		
2/06	REFERRED TO NATURAL RESOURCES		
2/06	FIRST READING		
2/06	FISCAL NOTE REQUESTED		
2/11	FISCAL NOTE RECEIVED		
2/12	FISCAL NOTE PRINTED		
2/13	HEARING		
2/14	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/15	2ND READING PASSED	49	0
2/16	3RD READING PASSED	48	1
	TRANSMITTED TO HOUSE		
2/18	FIRST READING		
2/18	REFERRED TO NATURAL RESOURCES		
3/08	HEARING		
3/13	COMMITTEE REPORT—BILL CONCURRED		
3/16	2ND READING CONCURRED	87	2
3/18	3RD READING CONCURRED	98	0
	RETURNED TO SENATE		
3/22	SIGNED BY PRESIDENT		
3/23	SIGNED BY SPEAKER		
3/25	TRANSMITTED TO GOVERNOR		

Senator Halligan commented on the program with the auditors for monitoring agencies for compliance. He pointed out this position appears to be what the auditors would do. In certain instances there appears to be duplication, i.e., compiling reports, determining the number and types of complaints, determining the effectiveness of the department's handling of complaints.

Senator Eck asked Dave Woodgerd if the counties who participated in the study are planning something similar at the county level. Mr. Woodgerd told the Committee he could not comment, the issue did not come up.

Closing by Sponsor:

Senator Brown closed on Senate Bill 279.

EXECUTIVE ACTION ON SENATE BILL 279

Motion:

Senator Harp moved DO PASS on Senate Bill 279.

Discussion:

NONE.

Amendments, Discussion, and Votes:

NONE.

Recommendation and Vote:

Motion to DO PASS CARRIES.

HEARING ON SENATE BILL 280

Presentation and Opening Statement by Sponsor:

Senator Brown told the Committee Senate Bill 280 is at the request of the Department of Revenue. He explained it will standardize the administration and collection of eight miscellaneous taxes and fees as an attempt to reduce administrative costs and facilitate taxpayer compliance.

Proponents' Testimony:

Jeff Miller, Administrator of the Income Tax Division told the Committee the bill would standardize and make more understandable to various requirements. He told the Committee there is a common population of taxpayers paying these taxes. They are faced with varying regulations in requirements depending on whether they are paying a corporate income tax or withholding

tax or similar tax. He explained an exhibit (Exhibit #2) he prepared to further explain Senate Bill 280.

Opponents' Testimony:

NONE.

Questions From Committee Members:

Senator Gage asked Jeff Miller if there was an estimate as to the delinquencies were. Mr. Miller explained there is approximately $8400 in delinquent accommodation tax, and a large telephone license tax is being protested. The balance he explained is not a serious issue of delinquencies. He estimated in aggregate and excluding the $84,000 for accommodation and the telephone at $4 million, delinquencies would be less than $100,000. Senator Gage what the nature of the telephone license tax protest was. Mr. Miller explained an outstanding telephone tax dispute against AT&T relative to back years, and relative to the question of whether or not the revenues the derived from providing equipment was part of their telephone business. The case is currently before STAB, and is expected to proceed through the appeals process.

Senator Harp asked Mr. Miller about the bed tax. Mr. Miller explained the accommodations tax due date now is the 30th day following the close of the quarter with withholding the last day of the month. Since it generally viewed as filing the last day of the month, penalties have been assessed and causes an unpleasant situation.

Senator Towe asked if it was the same language in each case. Mr. Miller explained they were attempting to do so. He explained where penalties and interest were cited the language was made uniform; where the law was silent on the issue language was offered.

Senator Towe asked about credit and refund. Mr. Miller told the Committee a person is entitled to a credit or refund if claim is made within five years of the due date of filing the return. The credit or refund would first be applied to any underpayment, the balance refunded with interest at the same rate the department charges (1% per month).

Closing by Sponsor:

Senator Brown closed on Senate Bill 280.

HEARING ON SENATE BILL 333

Presentation and Opening Statement by Sponsor:

Senator Delwyn Gage explained Senate Bill 333 would give corporations outside of Montana and operating in Montana the same

STANDARDIZE THE ADMINISTRATION AND COLLECTION OF CERTAIN MISCELLANEOUS TAXES

Background:

Legislation is required to standardize the statute of limitations, the credit and refund requirements, and penalty and interest provisions.

The 9-1-1 Emergency Telephone has penalty and interest provisions but does not prescribe the specific amount of penalty and interest. Tramway and Rural Electric Fees have no penalty or interest provisions but like taxes do; little incentive exists to timely comply with the requirements. Other taxes have confusing due dates and penalty and interest provisions.

The following table lists the taxes/fees and the specific areas addressed in the legislation (those areas asterisked under P & I are revisions to present penalty and interest statutes):

Tax/Fee	S.O.L.	Credit/ Refund	P & I	Other
9-1-1 Fee	**	**	**	(1)
Telephone Tax			**	
Freightlines Tax			**	
Accommodations Tax		**	**	(2)
Tramway Assessment	**	**		(3)
Rural Electric Fee	**	**		(4)
Consumer Counsel Fee	**	**	**	
Public Service Fee	**	**	**	

The penalty and interest language reflects a 10% penalty for both a delinquency and deficiency and interest at 1% per month. The interest calculation is based on the tax (only and not tax PLUS penalty). Penalty attaches to a deficiency if not paid within 10 days.

The statute of limitations is uniform at 5 years. Overpayments will be applied to any receivable owing and the balance refunded to the taxpayer. Interest is allowed

SENATE TAXATION
EXHIBIT NO. 2
DATE 2/14/91
BILL NO. SB 280

on overpayments under certain conditions.

(1) The 9-1-1 amendments provide for a 10% penalty and 1% per month interest.

(2) The Accommodations Tax was amended to clarify the due date (conflicting due dates created problems for our taxpayers) and to uniformize the penalty.

(3) & (4) The Tramway Assessment and Rural Electric Fee were amended to clarify due dates and provide for 10% penalty and 1% per month interest on delinquencies and deficiencies.

Number of Taxpayers Affected by Changes

Tax/Fee	Filers	Collections FY90
Consumer Counsel	702	$ 693,334
Public Service	148	$1,571,595
9-1-1 Emergency Fee	19	$1,085,524
Telephone Tax	21	$3,760,038
Accommodations Tax	1,125	$5,488,764
Tramway Assessment	15	$ 28,755
Rural Electric Fee	40	$ 12,127
Freightlines Tax	14	$1,166,312

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 2/15/91

___ LEGISLATIVE SESSION ___

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	P		
SEN. ECK	P		
SEN. BROWN	P		
SEN. DOHERTY	P		
SEN. GAGE	P		
SEN. HARP	P		
SEN. KOEHNKE	P		
SEN. THAYER	P		
SEN. TOWE	P		
SEN. VAN VALKENBURG	P		
SEN. YELLOWTAIL	P		

Each day attach to minutes.

This money is taken from both the employer and the employee and set aside for a purpose such as this. It is being used to give representation to the people of what are values are on a national level. It is very important that they be reminded that this money should come out of where it is and put into a separate fund.

Proponents:

REP. THOMAS went on record in support of SJR 15.

Opponents: None

Questions from the Committee:

REP. M. HANSON asked **SEN. VAUGHN** where the money is going now. **SEN. VAUGHN** said it is put into the general fund. It is added in so our national debt is actually showing less than what it is. This money should be taken out of that fund to show the people what our national debt actually is. It would also put the money aside so it will continue to be there for the people who are drawing social security now, and so it will be there for the people in the future.

Closing Statement by Sponsor:

SEN. VAUGHN said that **REP. THOMAS** will carry the bill.

HEARING ON SB 280

Presentation and Opening Statement by Sponsor:

SEN. BROWN, Senate District 2, Whitefish, stated SB 280 was requested by the DOR. It standardizes the administration and collection of eight miscellaneous taxes presently on the books: the telephone system fee, the telephone company license tax, the freight line company license tax, the lodging facility use tax, the passenger tramway assessment, the annual fee on rural cooperative utilities and the fee on regulated companies for the office of the consumer counsel.

There is a bill sponsored by him that dealt with the tramway tax. SB 280 will have to be amended to make it reconcile with SB 41.

Proponents' Testimony:

Bob Turner, DOR, stated the sole purpose of SB 280 is to improve the administration, penalties, and interest associated with the mentioned taxes. There will be only one reporting time which will be less costly to the taxpayers. There is no fiscal impact. It will just be used for standardization purposes.

Jim Kembel, Public Safety Division, DOC, stated that they are the receivers of the tramway tax collection as of SB 41. He has no problem with the bill or the amendments.

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

SEN. BROWN made no closing statement.

HEARING ON SB 275

Presentation and Opening Statement by Sponsor:

SEN. GAGE, Senate District 5, Cutbank, stated SB 275 repeals the coal retailer's license tax from which we get $11 and the corporation certificate fee of $1.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members:

REP. HOFFMAN said that the fiscal note shows a loss of revenue in the cement and gypsum license tax and asked **SEN. GAGE** if that was amended out. **SEN. GAGE** said yes. At the time it was put in the bill, the DOR would just as soon repeal it.

Closing by Sponsor:

SEN. GAGE stated that **REP. HOFFMAN** will carry SB 275.

EXECUTIVE ACTION ON SJR 15

Motion/Vote: **REP. STANG MOVED SJR 15 BE CONCURRED IN.** Motion carried unanimously on a voice vote.

HEARING ON SB 115

Presentation and Opening Statement by Sponsor:

SEN. BLAYLOCK, Senate District 43, Laurel, stated that SB 115 is not a new concept before the Legislature. It has been tried several time in the past and has gotten further in this session that ever before. In light of our Constitution which gives great powers to our local governments, this is a concept whose time has come particularly in the light of I-105. There has been a steady procession of tax cuts go through the Legislature which seriously eroded the taxing capabilities of our local governments. He has opted to present a local option tax bill to this Legislature.

agency services". On Page 2, Lines 11 and 12 strike "adjusted" and following "income" insert: "including all nontaxable income". He stated that they were trying to include all revenue income including social security.

Vote: Motion to amend HB 790 carried unanimously.

Motion/Vote: **REP. ELLIOTT MADE A SUBSTITUTE MOTION THAT HB 790 DO PASS AS AMENDED.** Motion carried unanimously.

EXECUTIVE ACTION ON HB 796

Motion/Vote: **REP. ELLIOTT MOVED HB 796 BE TABLED.** Motion carried 15 to 6 with **REPS. O'KEEFE, SCHYE, MADISON, COHEN, FAGG,** and **RANEY** voting no.

EXECUTIVE ACTION ON HB 614

Motion: **REP. THOMAS MOVED HB 614 DO PASS.**

Discussion:

REP. THOMAS said this is a cigarette tax that would help purchase insurance for uninsured children.

Motion/Vote: **REP. ELLISON MADE A SUBSTITUTE MOTION THAT HB 614 BE TABLED.** Motion carried 15 to 4 on a roll call vote. **EXHIBIT 14**

EXECUTIVE ACTION ON SB 280

Motion: **REP. FAGG MOVED SB 280 BE CONCURRED IN.**

Motion: **REP. ELLISON** moved to amend SB 280. **EXHIBIT 15**

Discussion:

Lee Heiman, Legislative Council, explained that SB 41 changed the collection of passenger tramway collection to the DOC. The **Governor** signed that as Chapter 34, so that tramway passenger assessments have to be removed for the bill.

Vote: Motion to amend SB 280 carried unanimously.

Motion/Vote: **CHAIR HARRINGTON MADE A SUBSTITUTE MOTION SB 280 BE CONCURRED IN AS AMENDED.** Motion carried unanimously.

EXECUTIVE ACTION ON HB 970

Motion: **REP. COHEN MOVED HB 970 MOVED HB 970 DO PASS.**

Motion: **REP. COHEN** moved to amend HB 970. **EXHIBIT 16**

HOUSE STANDING COMMITTEE REPORT

March 22, 1991

Mr. Speaker: We, the committee on Taxation report that Senate Bill 280 (third reading copy -- blue) be concurred in as amended.

Signed: _____
Dan Harrington, Chairman

Carried by: Rep. Fagg

And, that such amendments read:

Senate Bill 41 changed collection of passenger tramway assessments from DOR to Department of Commerce by amending 23-2-715, MCA. It has been enacted as Ch. 34, Laws of 1991. Senate Bill 280 amends the same section by adding standardized collection provisions for use by Department of Revenue. Section 23-2-715 is removed from SB 280 with this amendment.

1. Title, line 12.
Strike: "THE PASSENGER TRAMWAY ASSESSMENT,"

2. Title, line 16.
Strike: "23-2-715,"

3. Page 8, line 21 through page 10, line 16.
Strike: section 7 in its entirety
Renumber: subsequent sections

4. Page 22, line 9.
Page 22, line 12.
Page 22, line 13.
Page 22, line 16.
Strike: "12 and 16"
Insert: "11 and 15"

5. Page 22, line 17.
Page 22, line 20.
Strike: "13"
Insert: "12"

6. Page 22, line 21.
Page 22, line 24.

Strike: "11, 14, and 15"
Insert: "10, 13, and 14"

7. Page 22, line 25.
   Page 23, line 3.
Strike: "12, 16, 17, and 18"
Insert: "11 and 15 through 17"

8. Page 23, lines 7 and 8.
Strike: "7"
Strike: "9"
Insert: "8"

9. Page 23, lines 5 and 8.
Strike: "__ Bill No. __ [LC 981]"
Insert: "Senate Bill No. 445"

EXHIBIT 15
DATE 3-22-91
HB 280

Amendments to Senate Bill No. 280
Third Reading Copy

Technical Amendment
Coordination with SB 41, Enacted as Ch. 34
For the Committee on Taxation

Prepared by Lee Heiman
March 6, 1991

Senate Bill 41 changed collection of passenger tramway collection to Department of Commerce by amending 23-2-715, MCA. It has been enacted as Ch. 34, Laws of 1991. Senate Bill 280 amends the same section with standardized collection provisions for use by Department of Revenue. The amendment to 23-2-715 is removed from SB 280 with this amendment.

1. Title, line 12.
Strike: "THE PASSENGER TRAMWAY ASSESSMENT,"

2. Title, line 16.
Strike: "23-2-715,"

3. Page 8, line 21 through page 10, line 16.
Strike: section 7 in its entirety
Renumber: subsequent sections

4. Page 22, line 9.
   Page 22, line 12.
   Page 22, line 13.
   Page 22, line 16.
Strike: "12 and 16"
Insert: "11 and 15"

5. Page 22, line 17.
   Page 22, line 20.
Strike: "13"
Insert: "12"

6. Page 22, line 21.
   Page 22, line 24.
Strike: "11, 14, and 15"
Insert: "10, 13, and 14"

7. Page 22, line 25.
   Page 23, line 3.
Strike: "12, 16, 17, and 18"
Insert: "11 and 15 through 17"

8. Page 23, lines 7 and 8.
Strike: "7"
Strike: "9"
Insert: "8"

Ex. 15
3-22-91
HB 280

9. Page 23, lines 5 and 8.
Strike: "__ Bill No. __ [LC 981]"
Insert: "Senate Bill No. 445"

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. SB280

DATE 3/22/91 SPONSOR(S) Sen. Brown

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Bill Kloker	DOR	SB280		X
Bob Turner	DOR	SB280		X
Jim Kembel	Public Safety Div / DOR	SB280	Information	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.